

## **SECTION 6.0 SPECIAL REGULATIONS**

### **6.1 MOTOR VEHICLE SERVICE STATIONS**

**6.1.1 Dimensional Requirements.** Motor vehicle service stations shall conform to the following dimensional requirements:

1. The minimum lot area shall be twelve thousand square feet.
2. The minimum frontage on a street shall be one hundred and twenty feet.
3. The maximum width of driveways and sidewalk openings measured at the street lot line shall be thirty feet and the minimum shall be twenty feet.
4. The minimum setback of any building from all street lot lines shall be forty feet.
5. The minimum setback of gasoline pumps and service appliances shall be twenty five feet from all street lines.

**6.1.2 Driveways.** The minimum distance of driveways measured at lot line shall be as follows:

1. From corner lot line, twenty feet.
2. From interior side of lot line, ten feet.
3. From other driveway on same lot, twenty feet.
4. No driveway to or from any filling station shall be within fifty feet (measured along the street line on that side of the street which such driveway would cross) of any public or private school, church, playground, hospital, public library or institution for dependents or children.

**6.1.3 Standards.** Motor vehicle service stations shall conform to the following standards:

1. All illumination shall be shielded so as to not to shine on any adjacent property.
2. All washing, lubricating and repairing shall be carried on inside the building.
3. The area of the lot not landscaped shall be graded, surfaced with asphalt or other suitable material and drained to the extent necessary to prevent nuisances of erosion or excessive waterflow across public ways.
4. Signs and other advertising devices shall conform to Section 5.3.
5. No service station shall be used for residential purposes or for the rental, sales or leasing of vehicles, trailers or other merchandise, except as may otherwise be authorized

by the licensing board or City ordinance.

6. A raised curb at least six inches in height shall be constructed along all street frontage except at driveway openings.

7. Any motor vehicle service station which abuts a Residence District shall provide a strip at least five feet wide along each such abutting line, densely planted with shrubs or trees which are, at least four feet high at the time of planting and which are of a type that may be expected to form a year round opaque screen at least six feet high within three years. Such plantings shall be maintained in good condition at all times, and shall not be permitted to exceed seven feet in height. Such screening or barrier may be interrupted by normal entrances or exits, and shall have no signed or other advertising devices hung or attached thereto.

## **6.2 EARTH REMOVAL**

**6.2.1 General.** No soil, loam, sand, gravel or stone shall be removed from any lot not in public use in the city without first obtaining a special permit from the Board of Appeals except as exempted herein.

1. An Urban Renewal Use is exempt from the provisions of Section 6.2.

**6.2.2 Procedures.** Each application for a special permit for earth removal shall be accompanied by a plan, submitted in triplicate, prepared at the expense of the applicant by a registered land surveyor or civil engineer, showing:

1. The existing contours of the land;
2. The contours after completion of the operation;
3. All public roads and private means of vehicular access;
4. Proposed drainage;
5. Any other information as may be required by the Board of Appeals, pursuant to Section 9.4.3.

**6.2.3 Conditions and Restrictions.** In granting a permit hereunder, the Board of Appeals may impose reasonable conditions and restrictions as it deems to be in the public interest, including, but not limited to:

1. Method of removal;
2. Type and location of temporary structures;
3. Hours of operation;

4. Operations of removal trucks;
5. Area, depth and contours of excavations;
6. Distance of excavation to street and lot lines;
7. Reestablishment of ground lands and grades;
8. Provisions for temporary and permanent drainage;
9. Disposition of boulders and tree stumps;
10. Replacement of loam over the area of removal;
11. Planting of the area to suitable cover;
12. Cleaning, repair and/or resurfacing of streets used in removal activities which have been adversely affected by the removal activity.

**6.2.4 Time Limits; Performance Guarantee.** No permit for removal shall be issued for a period of more than three years, although such a permit may be renewed for additional periods in the same manner. The Board of Appeals shall require a cash bond or surety company bond to insure compliance with its conditions of authorization unless in a particular case it specifically finds that such security is not warranted and so states in its decision, giving the reason for its finding.

**6.2.5 Exceptions.** The following activities shall be exempt from this Section 6.2:

1. The removal of less than ten cubic yards or material in the aggregate in any year from one premise;
2. The transfer of material from one part of a premises to another part of the same premises for immediate use in such other part of the premises.
3. The removal of material necessarily excavated in connection with the lawful construction of a building or structure, a sidewalk or path incidental to any such building or structure as indicated on plans and profiles prepared by a registered engineer and approved by the director of inspections, or any driveway/parking facility permitted in accordance with Section 5.1.14.
4. The removal of material necessarily excavated in, connection with the lawful construction of public or private ways as indicated on plans and profiles prepared by a registered engineer and approved by the Planning Board.

## **6.3 TRAFFIC VISIBILITY ACROSS CORNERS**

**6.3.1 General.** In any district, no structure, fence or sign shall be, constructed and no vegetation shall be planted or, maintained in the plane above curb level so as to interfere with traffic visibility across a corner within that part of the lot which is within a triangle formed by the street lines and a third line joining points on the street lot lines twenty five feet from their intersection.

**6.3.2 Urban Renewal Use.** An Urban Renewal Use is exempt from the provisions of Section 6.3.

## **6.4 ADULT USES**

**6.4.1 Purpose.** It is the purpose of this section Adult Entertainment Ordinance to address and mitigate the secondary effects of the Adult Uses and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the City, adverse impacts on the property values of residential and commercial properties, and adverse impacts on the quality of life in the City. All of said secondary impacts are adverse to the health, safety and general welfare of the City and its inhabitants.

1. The provisions of this Ordinance have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this Ordinance to restrict or deny access by adults to Adult Uses or to sexually oriented matter or materials that are protected by the Constitution of the United States of America or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this Ordinance to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

**6.4.2 General.** Adult uses may be authorized by special permit as set forth in the Table of Principal Uses. The following regulations shall apply to adult uses as defined in this Ordinance. An Urban Renewal Use is exempt from the provisions of Section 6.4.

**6.4.3 Prohibition.** No adult use special permit shall be issued to any person convicted of violating the provisions of G.L. c. 119, s. 63, or G.L. c. 272, s. 28.

**6.4.4 Separation.** No adult use shall be located within fifteen hundred linear feet of:

1. any Residential District as designated herein; or
2. any other adult use; or
3. any establishment licensed under the provisions of G.L. c. 138, s. 12.

## **6.5 BODY ART ESTABLISHMENTS.**

**6.5.1 General.** Body art establishments may be authorized by special permit in the BB and BC Districts, as set forth in the Table of Principal Uses.

**6.5.2 Conditions.** Body art establishments shall conform with all applicable regulations of the Board of Health and ordinances of the City of Quincy.

## **6.6 WIRELESS COMMUNICATIONS FACILITIES (WCF)**

**6.6.1 Purpose.** This Section is intended to make the permitting of Wireless Communications Facilities a public process that allows adequate Personal Wireless Services to be developed while contemporaneously protecting the City of Quincy's character and appearance, protecting the public safety and general welfare of the community, and minimizing any adverse impacts of such facilities. This shall be accomplished by requiring that Wireless Communications Facilities be authorized by special permit while being configured so as to minimize and mitigate adverse visual impact and by providing requirements and standards for regulation, placement, location, construction, monitoring, design, modification and removal of such Facilities.

**6.6.2 Location.** Wireless communications facilities may be located as set forth in the Table of Use Regulations.

**6.6.3 Special Permit.** No wireless communications facility shall be constructed or maintained without the issuance of a special permit by the Zoning Board of Appeals (hereafter referred to as "the Board") or the Planning Board if the wireless communications facility shall be located within the QCD 10 or QCD 15 Districts, or in accordance with the provisions of Section 9.4 and other applicable sections and subject to a determination by the Board that the proposed wireless communications facility will not cause substantial detriment to the city or the neighboring area. Said determination shall include but not be limited to consideration of the communications needs to be served by the wireless communications facility, impact on the neighborhood character, including aesthetics, impact on the natural environment, including visual impacts, impact on traffic flow and safety, potential fiscal impact including impact on city services, tax base and employment.

**6.6.4 Contents of Application.** Each applicant for a special permit under this section shall include in the application, at a minimum, the following information.

1. A copy of the owner's deed to the lot or parcel where a proposed facility is to be located; or evidence of the applicant's right to possession and/or control of the premises where the applicant is not the owner of record. Without limiting the foregoing, every application must be joined by a Personal Wireless Service Provider who will be an immediate user of the proposed Personal Wireless Facility;
2. A narrative description of the proposed facility including the location and identification of all components together with a statement describing the purpose of each component and its intended function together with photographs or other graphic illustrations fairly depicting the physical appearance of the proposed facility equipment when installed. Said description shall include the capacity of the facility, the number and types of antennas and the basis for the calculation of the capacity;
3. A locus plan prepared and certified by a licensed professional engineer depicting all property lines, the exact location and dimension of all components of the proposed facility including all structures, streets, easements, rights of way, landscape features, including contours, residential dwellings and all buildings within 500 feet of the proposed

Facility and also elevations showing details of the installation;

4. A map showing and itemized description of all Personal Wireless Facilities currently existing within ten miles of the proposed installation and in addition those Facilities which the applicant expects to install and/or reasonably knows will be proposed or installed by itself and/or other Personal Wireless Service Providers within the next twenty four (24) months;

5. A description and copies of all federal, state and local licenses, permits or other approvals obtained by the applicant to date or to be obtained by the applicant prior to construction of the proposed Facility. This shall include an affidavit by the applicant and supporting documentation that the proposed facility complies with or is exempt from applicable regulations administered by the Federal Communications Commission, Federal Aviation Administration, Massachusetts Aeronautics Commission and the Department of Public Health;

6. A statement as to whether an Environmental assessment (EA), a Draft Environmental Impact Statement (DEIS) or Environmental Impact Statement (EIS) is or will be required under the National Environmental Protection Act or the National Historic Preservation Act, and if so, a copy of said EA, DEIS, or EIS;

7. A description in both geographic and radio frequency terms of the scope and quality of the service currently available and being provided to the City by the applicant's existing facilities, the need to be addressed by the proposed Facility, the manner in which the proposed Facility addresses the perceived needs identified;

8. A statement describing the current state of technology available to provide wireless telecommunications services, and whether any such technology is available and feasible for the purpose of addressing the perceived need described in subsection seven (7) above. Included in this statement the applicant shall address whether the most current system optimization software available has been employed so as to improve spectrum usage and capacity and whether such software might address the perceived need;

9. A description of the terms of any co-location agreements between the Applicant and any other Personal Wireless Service Provider;

10. A statement as to whether the applicant considered any alternatives to a freestanding facility including but not limited to co-locating on an existing facility and, if so, the reason(s) such alternatives are not being proposed;

11. A statement as to why there exists no feasible alternative to a free standing facility to address the need identified herein;

12. A statement as to whether the need identified herein may be adequately met by siting a facility on other property;

13. A statement from the applicant as to whether the proposed facility will have any impact on an environmentally, historically or archaeologically significant area in the vicinity of the proposed facility;

14. A description of the radio frequency testing procedures conducted by the applicant in connection with the proposed facility and the results thereof;

15. A statement setting forth the applicant's projected future needs for wireless telecommunications facilities within the City of Quincy;

16. A statement as to whether the applicant is seeking approval of co-location facilities on the proposed facility, and if so, a detailed description in compliance with the preceding subsections of all components of the co-location facility for which the applicant is seeking approval.

**6.6.5 Procedures; Balloon Test.** After the notice of public hearing has been published as provided by G. L. Chapter 40A, Section 11 but prior to the hearing for which notice has been given thereunder, the applicant shall, with not less than forty-eight (48) hours written notice to the Board and all immediate abutters, and owners of land directly opposite on any public or private street or way, and abutters to abutters within 300 feet of the property line of the applicants as they appear on the most recent applicable tax list, conduct a balloon test or crane test, or such other reasonable equivalent, of the height of the free standing facility and submit to the Board prior to the hearing photographic representation from a suitable number of locations (the cardinal points, N,S,E,W, as a minimum) so as to depict the visual impact of the proposed facility on the City, the neighborhood and the abutters.

**6.6.6 Independent Review.** Upon receipt of an application for a special permit under this section, the Board may hire independent consultants whose services shall be paid for by the applicant for the purposes of evaluating any aspect of the proposed facility, review of the application and review of current service coverage. The applicant shall cooperate with the independent consultant selected by the Board and shall provide all information reasonably requested by the independent consultant including but not limited to radiological testing of the site in question and the surrounding area as the Board determines.

**6.6.7 Criteria; Special Permit.** The Board shall issue a special permit for the construction of a free standing wireless communications facility only where it finds that:

1. Existing facilities do not adequately address the need for service as determined by evidence supplied by the applicant (and through independent review, above) in accordance with these requirements.
2. There exists no feasible alternative to the proposal that would adequately address the need in a less intrusive manner, and
3. The proposed use is in harmony with the general purpose and intent of this ordinance

**6.6.8 Conditions.** The Board may attach to the issuance of a special permit issued hereunder such terms and conditions deemed appropriate in order to safeguard the safety and welfare of the City and to mitigate the impact of any attached or free standing facility to be constructed pursuant to a special permit issued hereunder, including, but not limited to, the following conditions:

1. New freestanding wireless communication facilities shall be limited to monopoles. No lattice towers shall be permitted. Monopoles shall be designed so as to structurally accommodate other potential users where technically practicable. No new monopole shall be erected if there is technically suitable space available on an existing monopole within the geographic area to be served. The applicant shall make accommodation and shall agree to rent or lease space on the monopole under the terms of fair-market lease, without discrimination to other Personal Wireless service Providers. Monopole height shall not exceed 100 feet above mean finished ground elevation at the base of the mounting structure, The Board may waive this height restriction, not to exceed 140 feet above mean finished ground elevation at the base of the mounting structure, to allow for co-location which will reduce the need for other facilities.
2. Wireless communications service providers shall, to the maximum extent possible colocate on a single facility.
3. Existing on-site vegetation shall be preserved to the maximum extent practicable. The Board may require the planning of screening vegetation around the perimeter of the proposed site and around communication equipment shelters and any other proposed buildings.
4. The wireless communication facility shall minimize to the maximum extent feasible, adverse visual effects on the environment. The Board may impose reasonable conditions to ensure this result including painting and lighting standards, landscaping and screening.
5. Any communication equipment shelter or accessory building for support of communication equipment, as well as any fencing installed to control access to it, shall be designed to be architecturally similar to and compatible with the surrounding area, and whenever feasible, structure shall be constructed underground. Accessory buildings shall be screened so as to minimize visibility from adjacent premises.
6. Antennas and related equipment on existing structures shall be camouflaged, that is, disguised, shielded, hidden or made to appear as an architectural component of the structure.
7. Facade-mounted antennas shall not extend above the face of any wall or exterior surface of the existing structure.
8. No roof mounted wireless communications equipment shall extend vertically more



than 8 feet for any building up to 15 feet in height, 10 feet for any building 15 feet to 36 feet, or 12 feet for any building more than 36 feet. Such equipment shall be set back from the edge of the roof 1 foot for every foot of equipment height.

9. The area surrounding the personal wireless facility and accessory buildings shall be completely secure from trespass and vandalism. Fencing may be required to control unauthorized entry. A sign not larger than one foot square shall be posted adjacent to the entry gate/ access way to the facility indicating the name of the facility's owner and a 24-hour emergency telephone number.

10. No commercial signage or advertising shall be affixed to any wireless communication monopole.

11. Traffic associated with the wireless communication facility shall not adversely affect public ways.

**6.6.9 Abandonment.** Any wireless communications facility that is not operated or that is not in compliance with city ordinance for a continuous period of thirty (30) days shall be considered abandoned, and the Director of Inspectional Services may, by written notice sent by certified mail, order that such facility be removed. Upon such determination and notification all structures and equipment and any associated debris associated with the wireless communications facility shall be removed within thirty (30) days. The Board may require that the proper dismantling and removal of such structures and equipment and the lawful disposal thereof be secured by a bond or other form of surety sufficient in the opinion of the Board to secure performance under this subsection. Such bond or other surety shall be maintained throughout the period of construction, location, operation and use of the subject wireless communications facility. The director of Inspectional services shall receive thirty (30) days advance written notice of any cancellation, non-renewal or material amendment of such bond or other surety. In the event that the posted amount does not cover the cost of such removal and disposal, the City may place a lien upon the premises covering the difference in costs.

**6.6.10 Term.** Unless an earlier expiration date is specified by the Board, all special permits issued under this section shall automatically expire five years from the date of issuance. Prior to the expiration the applicant may apply for successive five year renewals subject to the public hearing process. In determining whether the special permit shall be renewed, the Board may take into consideration whether there then exist any structure or technology available to the applicant which would enable the applicant to provide functionally equivalent services in a less intrusive manner. Upon expiration of a special permit that has not been renewed, the applicant shall disassemble and remove the entire facility forthwith at its expense, and any such facility not removed in its entirety within thirty (30) days of the expiration of the special permit shall be deemed abandoned within the meaning of Section 6.6.9, above.

**6.6.11 Insurance.** The wireless communications provider shall continuously insure its equipment and facilities against damages to persons and property in an amount established by the Board, in conjunction with the Director of Inspectional Services, based upon the nature and extent of the proposed facility. On an annual basis said provider must deliver to the Director of

Inspectional Services a Certificate of Insurance, in which the City shall be listed as an additional insured.

**6.6.12 Compliance with Other Laws.** Monopoles, equipment, and facilities must be installed, erected, maintained and used in compliance with all applicable federal and state laws and regulations. To this end, the wireless communications provider shall monitor emissions annually and file annually with the Director of Inspectional Services a written statement with the results of such monitoring. Said statement shall indicate that the facility is in compliance with any applicable laws and government regulations including but not limited to the Federal Communications Commission and Federal Aviation Administration. In the event that said facility is not in compliance with such laws and regulations, the wireless service provider shall come into compliance within fifteen (15) days of the date of any such non-compliance or cease all wireless communication services until full compliance is attained.

**6.6.13 Maintenance.** All wireless communications equipment, facilities and monopoles must at all times be maintained in good and safe condition. The wireless communications provider shall arrange for a Massachusetts licensed professional structural engineer to review the wireless facility and any accessory buildings every five (5) years to certify these structures and facilities are in sound condition. A report of the engineer's findings shall be filed with the Director of Inspectional Services at the completion of construction and every five (5) years thereafter. Should the engineer deem the facility not to be sound, the wireless communications provider in conjunction with the owner of the facility shall submit to the Director of Inspectional Services within ten (10) business days a plan to remedy the structural defect(s). Upon approval of the plan by the Director of Inspectional Services, the remediation plan shall be completed as soon as is reasonably possible.

**6.6.14 Indemnification.** Any permit issued pursuant to this ordinance shall require that the holder of such permit indemnify and hold harmless the City of Quincy and its boards, commissions, committees, officers, employees, agents and representatives from and against all claims, causes of action, suits, damages, costs and liability of any kind which arise out of the construction, location, operation, or use of the subject wireless communications facility in the City of Quincy.

**6.6.15 Exemptions.** The provisions of this ordinance shall not apply to:

1. Wireless communication facilities providing safety or emergency services for any federal, state, or municipal body;
2. Amateur radio antennas licensed by the Federal Communications Commission and subject to General Laws Chapter 40A, section 3, provided that such antennas are not used for any commercial purpose and do not exceed 35 feet;
3. Home television or internet access antennas;
4. Medical facilities for transmittal of clinical medical information.

5. An Urban Renewal Use.

## **6.7 WIND FACILITIES**

**6.7.1 Purpose.** The purpose of this Section is to provide by either a special permit or site plan approval for the construction and operation of wind facilities, whether as the primary use or accessory use, and to provide standards for the placement, design, construction, monitoring, modification and removal of wind facilities that address public safety, minimize impacts on scenic, natural and historic resources of the City and provide adequate financial assurance for decommissioning.

### **6.7.2 Applicability.**

1. Site plan approval is required for the construction and/or modification of wind facilities where the height of the wind turbine(s) is less than 250 feet.
2. A special permit is required for the construction and/or modification of wind facilities where the height of the wind turbine(s) equals or exceeds 250 feet.
3. An Urban Renewal Use is exempt from the provisions of Section 6.7.

**6.7.3 Application Procedures.** The application for a wind facility shall be filed in accordance with the rules and regulations of the Planning Board, the Quincy Zoning Ordinance, and G.L. c. 40A, s. 9. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts. Included in the application shall be:

#### *1. General.*

- a. Name, address, phone number and signature of the applicant, as well as all coapplicants and property owners;
- b. Name, contact information and signature of any agents representing the applicant;
- c. Documentation of the legal right to use the wind facility site, including the requirements set forth herein.

#### *2. Siting and Design.* The applicant shall provide a description of the property, which shall include:

- a. Copy of a portion of the most recent USGS Quadrangle Map, at a scale of 1:25,000, showing the proposed facility site, including turbine sites, and the area within at least two miles from the facility. Zoning district designation for the subject parcel should be included; however a copy of a zoning map with the parcel identified is suitable.
- b. A one inch equals 200 feet plan of the proposed wind facility site, with contour intervals of no more than 10 feet, showing the following:
  1. Property lines for the site parcel and adjacent parcels within 500 feet;
  2. Outline of all existing buildings, including purpose (e.g. residence, garage, etc.) on site parcel and all adjacent parcels within 500 feet. Include distances from

the wind facility to each building shown;

3. Location of all roads, public and private on the site parcel and adjacent parcels within 500 feet, and proposed roads or driveways, either temporary or permanent;

4. Existing areas of tree cover, including average height of trees, on the site parcel and adjacent parcels within 500 feet;

5. Proposed location and design of wind facility, including all turbines, ground equipment, appurtenant structures, transmission infrastructure, access, fencing, exterior lighting, etc;

6. Location of viewpoints referenced herein.

3. *Visualizations.* The applicant shall provide at least six sight lines, including from the nearest building with a view of the wind facility, for pre- and post-construction view representations. Sites for the view representations shall be selected from populated areas or public ways within a two (2) mile radius of the wind facility. View representations shall be in color and have the following characteristics:

a. Include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the wind facility by superimposition of the wind facility onto photographs of existing views;

b. Include existing or proposed buildings or tree coverage;

c. Include description of the technical procedures followed in producing the visualization, such as distances, angles, and lens.

4. *Landscape Plan.* The applicant shall submit a landscape plan indicating all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, exterior lighting, other than FAA lights, screening vegetation or structures. Lighting shall be designed to minimize glare on abutting properties and except as required by the FAA be directed downward with full cut-off fixtures to reduce light pollution.

5. *Operation and Maintenance Plan.* The applicant shall submit a plan for maintenance of access roads and storm water controls, as well as general procedures for operational maintenance of the wind facility.

6. *Compliance Documents.* If required under other subsections herein, the applicant will provide the compliance documents with the application.

7. *Independent Consultants.* Upon submission of an application for a special permit, the Planning Board may hire outside consultants, pursuant to G.L. c. 44, s. 53G. As necessary, the applicant may be required to pay not more than 50% of the consultant's costs.

**6.7.4 Zoning Districts.** The construction of a wind facility as a primary use is not permitted in Residence A, Residence B, or Residence C zoning districts. The construction of a wind facility as an accessory use in Residence A, Residence B, or Residence C zoning districts or as either an accessory use or primary use in all other zoning districts is permitted subject to the issuance of a permit in accordance with the provisions of this chapter. In addition to any other requirements of the Quincy Zoning Ordinance, such permits may also impose reasonable conditions to insure that

wind facilities shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts; require safeguards and limitations on time and use; and may require the applicant to implement all reasonable measures to mitigate unforeseen adverse impacts of the wind facility, should they occur.

1. Wind monitoring or meteorological towers are not permitted in Residence A, Residence B, or Residence C zoning districts. Wind monitoring or meteorological towers are permitted in all other zoning districts subject to issuance of a building permit for a temporary structure for a period of no longer than twelve (12) months and subject to other provisions of this Section.

**6.7.5 Compliance with Laws, Ordinances and Regulations.** The construction and operation of all such proposed wind facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements and industry standards.

**6.7.6 Insurance.** The applicant shall provide evidence of liability insurance in an amount and duration sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.

**6.7.7 Site Control.** The applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Documentation shall also include proof of control over setback areas and access roads, if required. Control shall mean the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

**6.7.8 General Siting Standards.**

1. *Ground Clearance.* The minimum distance between the ground and any part of a rotor or a turbine blade shall be thirty (30) feet.

2. *Setbacks.* Wind turbines shall be set back a distance equal to 1.5 times the overall blade tip height of the wind turbine from the nearest nonparticipating residential or commercial structure and from the nearest property line and public or private right of way line.

**6.7.9 Lighting, Signage, Utilities and Other Structures.**

1. *Lighting.* Wind turbines shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the wind facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.

2. *Signage.* Signs on the wind facility shall be limited to:

- a. Signs necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger, which shall not exceed four (4) sq. ft.;
- b. Educational signs providing information about the facility and the benefits of renewable energy if, and only if, the wind facility is on public land.

3. *Advertising.* Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.

**6.7.10. Utility Connections.** Reasonable efforts shall be made to locate utility connections from the wind facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

**6.7.11 Appurtenant Structures.** All appurtenant structures to such wind facilities shall be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall be contained within the turbine tower whenever technically and economically feasible. Structures shall only be used for housing of equipment for this particular site. Whenever reasonable, structures should be shaded from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.

**6.7.12 Ancillary Structures.** No telecommunications dishes, antennas, cellular telephone repeaters, or other similar devices shall be attached externally to wind turbine towers.

**6.7.13 Support Towers.** Monopole towers are the required type of support for the wind turbine.

**6.7.14 Safety, Aesthetic and Environmental Standards.**

1. *Emergency Services.* The applicant shall provide a copy of the project summary to the police and fire departments and shall cooperate with these departments in developing an emergency response plan.

2. *Unauthorized Access.* Wind turbines or other structures part of a wind facility shall be designed to prevent unauthorized access and wind turbines shall not be climbable up to fifteen (15) feet above ground surface.

3. *Shadow/Flicker.* Wind facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses through either siting or mitigation.

4. *Noise.* The wind facility and associated equipment shall conform to the provisions of the Department of Environmental Protection (DEP), Division of Air Quality Noise Regulations (310 CMR 7.10), unless the DEP and the special permit granting authority agree that those provisions shall not be applicable. A source of sound will be considered to be violating these regulations if the source:

a. Increases the broadband sound level by more than 10 dB above ambient; or  
Produces a pure tone condition when an octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by

three (3) decibels or more. These criteria are measured both at the property line and at the nearest inhabited residence. Ambient is defined as the background Aweighted sound level that is exceeded 90% of the time measured during equipment hours. The ambient may also be established by other means with consent from DEP. An analysis prepared by a qualified engineer shall be presented to demonstrate compliance with these noise standards. The special permit granting authority, in consultation with the DEP, shall determine whether such violations shall be measured at the property line or at the nearest inhabited residence.

b. Methods for measuring and reporting acoustic emissions from wind turbines and the wind facility shall be equal to or exceed the minimum standards for precision described in the American Wind Energy Association Standard 2.1 ó 1989 titled *Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume 1: First tier as revised*.

5. *Color and Finish*. The Planning Board shall have discretion over the turbine color, although a neutral, non-reflective exterior color designed to blend with the surrounding environment is encouraged.

6. *Land Clearing, Soil Erosion and Habitat Impacts*. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind facility and is otherwise prescribed by applicable laws, regulations, and ordinances.

**6.7.15 Waiver of Setbacks, Sound and Shadow Flicker Provisions.** The Planning Board, in its discretion, is authorized to waive the setback provisions of this chapter to no less than 1.1 times the overall blade tip height and the sound, and shadow flicker provisions of this chapter to the extent these three provisions affect a non-participating property, provided the applicant submits the request in writing, and if the applicant is not the property owner, the property owner's written consent to the waiver shall also be submitted. The application shall contain the non-participating property owner's acknowledgement of the setback, sound or shadow flicker requirements of this chapter and what is proposed in lieu thereof, describe the impact on the nonparticipating property owner, and state the non-participating property owner's support for the applicant's waiver request. A non-participant property owner's affidavit shall be made part of the permit decision and shall be separately recorded with the Norfolk County Registry Deeds at the same time that the permit decision is recorded to provide notice to all subsequent purchasers of the non-participating property of the waiver granted.

**6.7.16 Facility Conditions.** The applicant shall maintain the wind facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the fire and police departments. The project owner shall be responsible for the cost of maintaining the wind facility and any access road, unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction.

#### **6.7.17 Abandonment or Decommissioning.**

1. *Removal Requirements.* Any wind facility, which reaches the end of its useful life or is abandoned, shall be removed. When the wind facility is scheduled for decommissioning, the applicant shall notify the director by certified mail thirty (30) days prior to the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the wind facility no more than one hundred fifty (150) days after the date of discontinued operations. At the time of removal, the wind facility site shall be restored to the state it was in before the facility was constructed or any other legally authorized use. More specifically, decommissioning shall consist of:

- a. Physical removal of all wind turbines, structures, equipment, security barriers and transmission lines from the site;
- b. Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations;
- c. Stabilization or re-vegetation of the site as necessary to minimize erosion. The director may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

2. *Abandonment.* Absent notice of a proposed date of decommissioning, the facility shall be considered abandoned when the facility fails to operate for more than one year without the written consent of the director. The director shall determine what proportion of the facility is inoperable for the facility to be considered abandoned. If the applicant fails to remove the wind facility in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the city shall have the authority to enter the property and physically remove the facility. The costs incurred by the city shall constitute a debt due to the city upon completion of the decommissioning activities and the rendering of an account to the facility owner, operator and the landowner, if applicable, and shall be recoverable from such parties in an action of contract.

**6.7.18 Financial Surety.** The Planning Board shall require the applicant provide annually to the director evidence of surety, either through an escrow account, bond or otherwise, with the city as the named obligee/payee, to insure 100% of the cost of compliance with section 17.38.090(1) herein. The applicant shall also submit annually to the director a fully inclusive estimate of the costs associated with such compliance prepared by a qualified engineer. Such surety will not be required for municipal or state-owned facilities.

**6.7.19 Term of Special Permit.** A special permit issued for a wind facility shall be valid for twenty-five (25) years, unless extended or renewed. The time period may be extended or the permit renewed by the Planning Board upon determination by the Planning Board of the satisfactory operation of the facility. Request for renewal must be submitted at least 180 days prior to expiration of the special permit. Submitting a renewal request shall allow for continued operation of the facility until the Planning Board acts. At the end of that period, including extensions and renewals, the wind facility shall be removed as required by this chapter.

**6.7.20 Notice of Operation.** The applicant shall notify all abutters within 500 feet of the



facility prior to the operation and testing of any wind facility. The wind facility owner/operator shall post an emergency telephone number so that the appropriate people may be contacted should any wind turbine need immediate attention. This telephone number shall be clearly visible on a permanent structure(s) or post(s) within a reasonable distance from the facility.

**6.7.21 Public Inquiries and Complaints.** The wind facility owner shall maintain a phone number and identify a person for the public to contact with inquiries and complaints throughout the life of the project. The wind facility owner and operator shall make reasonable efforts to respond to the public's inquiries and complaints. Upon receipt by the director of a complaint regarding sound, shadow, or flicker from an existing wind facility, the director shall investigate the complaint. If the director determines the complaint reasonably demonstrates inconsistency with the permit granted, the wind facility owner or operator may be required, at its expense, to have prepared by an independent authority, approved by the director, a study that demonstrates compliance with this Section.

## **6.8 SATELLITE RECEIVING ANTENNA**

**6.8.1 Small Dishes.** A satellite receiving antenna with a receiving dish with a diameter equal to or less than three feet may be installed in any district.

**6.8.2 Large Dishes.** A satellite receiving antenna with a receiving dish with a diameter greater than three feet may not be erected in a Residential District unless it is accessory to a residential or institutional use and it is located in a rear yard.

**6.8.3 Requirements for Large Dishes.** A satellite receiving antenna with a receiving dish with a diameter greater than three feet is subject to the following conditions:

1. The antenna is located in a rear yard but not within the required minimum setback.
2. The antenna shall be permanently secured to the ground. No antenna shall be installed on a building or on a portable or movable structure, such as a trailer.
3. No antenna shall exceed an overall diameter of 12 feet or a height of 15 feet above the natural grade when measured to its uppermost point when in an upright position.
4. The base of the antenna shall be screened from view from any abutting lot or from the street by an opaque fence, at least six feet high, or by planting providing comparable screening and opacity.
5. The antenna shall be of a nonreflecting and inconspicuous color and compatible with the appearance and character of its surroundings. No advertising material shall be permitted.
6. The antenna shall not be used for commercial purposes except where accessory to a use permitted in the district by special permit, provided the antenna is subject to the conditions of the special permit.

**6.8.4 Abandonment.** An antenna no longer in use shall be removed within 30 days. In the event that the owner fails to comply, the City may enter onto the Property to implement the measures set forth above. In the event the City incurs expense, the owner shall promptly reimburse the City for all reasonable expenses associated therewith; if the owner fails to so reimburse the City, the City may place a lien on the property or any improvement thereon to secure such payment.